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**PACIFIC**  **TELESIS**  
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May 5, 1995

**EX PARTE OR LATE FILED**

**EX PARTE**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**RECEIVED**

**MAY 5 1995**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Dear Mr. Caton:

Re: *GEN. Docket No. 90-314, RM-7140, RM-7175, RM-7618 - Amendment of the Commission's Rules to Establish New Personal Communications Services*

Today, Betsy Granger of Pacific Bell Mobile Services and I met with Michael Wack, Deputy Chief of the Policy Division, and Nancy Boocker, both of the Wireless Telecommunications Bureau, to discuss issues outlined in the attached document, which was used during the meeting. Please associate this material with the above-referenced proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Attachment

cc: Michael Wack  
Nancy Boocker

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**DRAFT 4-17-95**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

**RECEIVED**

**MAY 5 1995**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Amendment of the Commission's  
Rules to Establish New Personal  
Communications Services

GEN Docket No. 90-314

RM-7140, RM-7175, RM-7618

**PACIFIC BELL AND NEVADA BELL**  
**PACIFIC BELL MOBILE SERVICES AND**  
**PACIFIC TELESIS MOBILE SERVICES'**  
**PLAN OF NON-STRUCTURAL SAFEGUARDS**  
**AGAINST CROSS-SUBSIDY AND DISCRIMINATION**

The Commission's Second Report and Order in the above-captioned proceeding states that commencement of PCS service by local exchange companies ("LECs") is "contingent on the LEC implementing an acceptable plan for non-structural safeguards against

discrimination and cross-subsidization.”<sup>1</sup> Pacific Bell, Nevada Bell, Pacific Bell Mobile Services and Pacific Telesis Mobile Services describe their plan herein.

## I. INTRODUCTION

The Commission extensively considered LEC participation in the provision of PCS services. In its Notice of Inquiry in 1990 the Commission sought comment on LEC participation.<sup>2</sup> In its Notice of Proposed Rulemaking (“NPRM”) in 1992 it “tentatively concluded that there was a strong case for allowing LECs to provide PCS within their respective service areas.”<sup>3</sup>

In the Second Report and Order the Commission responded to comments to its NPRM and explained to what extent LECs would be permitted to offer PCS services and under what conditions. The Commission concluded that there were several reasons why LECs should be permitted to offer PCS. One reason was that economies of scope between PCS and the wireline network would benefit the public. “We believe that these economies will promote more rapid development of PCS and will yield a broader range of PCS services at lower costs to consumers.”<sup>4</sup> Another reason was the belief that “permitting LECs to provide PCS service

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<sup>1</sup> Amendment of the Commission’s Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, 8 FCC Rcd 7700, para. 115, n.96 (1993) “Second Report and Order”.

<sup>2</sup> In the Matter of Amendment of the Commission’s Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, Notice of Inquiry 5 FCC Rcd 3995 (1990) para. 27.

<sup>3</sup> In the Matter of Amendment of the Commission’s Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, Notice of Proposed Rulemaking and Tentative Decision, 7 FCC 5676 (1992) para. 75.

<sup>4</sup> Id. at para. 126.

would encourage them to develop their wireline architecture to better accommodate all PCS services.”<sup>5</sup> The only limitation was that LECs with cellular interests were limited to 10 MHz of PCS spectrum in the areas that overlapped with their cellular interests.<sup>6</sup>

The Commission specifically addressed whether LECs should provide PCS through separate subsidiaries to prevent non-competitive behavior. It concluded separate subsidiaries are not necessary:

no new separate subsidiary requirements are necessary for LECs (including BOCs) that provide PCS. Indeed, by seriously limiting the ability of LECs to take advantage of their potential economies of scope, such requirements would jeopardize, if not eliminate, the public interest benefits we seek through LEC participation in PCS. In addition, we do not believe that commenters have justified imposing additional cost-accounting rules on LECs that provide PCS service.<sup>7</sup>

In sum, the Commission’s Second Report and Order gave a LEC management flexibility with respect to the corporate placement of its PCS operations: its overriding goal being that LEC provision of PCS would benefit the public.

## II. BUSINESS PLACEMENT OF PCS

Pacific Telesis Mobile Services was the winning bidder for licenses for the Northern and Southern California Major Trading Areas. We have made the required down payment and have filed the long-form license application, Form 600.

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<sup>5</sup> Second Report and Order, para. 113.

<sup>6</sup> Id. at para. 105; see also In the Matter of Amendment of the Commission’s Rules to Establish New Personal Communications Service, GEN Docket No. 90-314, Memorandum Opinion and Order, 9 FCC Rcd 4957 (1994) paras. 98-140.

<sup>7</sup> Second Report and Order, para. 126.

The PCS license will be held by a wholly owned subsidiary of Pacific Telesis Group, Pacific Telesis Mobile Services ("PTMS"). PTMS was established to hold our PCS for several reasons: (i) to reduce the size of the total PCS investment that is carried by Pacific Bell through its wholly owned subsidiary, Pacific Bell Mobile Services; (ii) to ensure that the costs and risks involved in the acquisition and ownership of the license are borne by shareholders, not ratepayers, and (iii) to carry out our financing plan without affecting Pacific Bell's credit rating." Our rating at present is AA-, and we want to protect it. Preserving an excellent credit rating serves an important public purpose and benefits Pacific Bell's customers.

PTMS expects to enter into a letter agreement under which Pacific Bell Mobile Services ("PBMS"), a wholly owned subsidiary of Pacific Bell, will design, construct, manage, operate, and market services for PTMS. The agreement will provide that PBMS cannot sell or transfer any of the network assets without PTMS's prior approval. PBMS intends to provide these services in both California and Nevada. Marketing in Nevada, however, may be done by Nevada Bell as an agent of PBMS, by PBMS itself, or by some other arrangement with Nevada Bell. PTMS will retain control and supervision over the licensed system.

We have chosen to provide PCS services through a wholly owned subsidiary of Pacific Bell rather than as a fully integrated division for several reasons. One, since PCS is a competitive service with associated risks, a separate subsidiary will permit a different compensation system that reflects the risk in the business. Two, a separate subsidiary will provide a more discrete measurement of operating results. Three, it provides the advantage of a single purpose entity that can still take advantage of many of the economies of scope described by the Commission, such as joint marketing and collocation.

### III. PCS SAFEGUARDS PLAN TO PREVENT CROSS-SUBSIDY AND ENSURE NON-DISCRIMINATORY TREATMENT OF OTHER PCS PROVIDERS

#### A. Issues of Cross-subsidy

The Commission has stated that PCS providers affiliated with local exchange carriers are subject to accounting safeguards. Those rules are designed to prevent cross-subsidy between regulated and non-regulated services and between a regulated carrier and nonregulated affiliates.<sup>8</sup> The Commission has also clarified that services that have never been subject to rate regulation are considered to be non-regulated services for federal accounting safeguards purposes.<sup>9</sup> Thus, although PCS is a regulated service in many aspects, the absence of rate regulation makes it a non-regulated service for federal accounting safeguards purposes.

The Commission stated that the accounting "...safeguards are necessary because they help to insure that costs of non-regulated affiliates are not passed to and included as costs of the local exchange carrier."<sup>10</sup> A separate subsidiary, PBMS, will easily allow tracking the costs of PCS services separately from Pacific Bell's regulated services and accomplish the Commission's goal of keeping costs of PCS separate from costs of other telephony services. Furthermore, as the Commission has recognized, price cap regulation has greatly reduced the

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<sup>8</sup> Pacific Bell and Nevada Bell have implemented the accounting safeguards: we have approved Cost Allocation Manuals (CAMs) which we revise as required by Commission rules. Our proposed revisions are subject to notice and comment. The Commission annually audits our compliance with our CAM provisions and Part 64 rules.

<sup>9</sup> In the Matter of Eligibility for Specialized Mobile Radio Services and Radio Services in the 220-222 MHz Land Mobile Band and Use of Dispatch Communications, GN Docket No. 94-90, Notice of Proposed Rulemaking, 9 FCC Rcd 4405 (1994) para. 20,n.64.

<sup>10</sup> In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, GEN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1441, para. 218 (1994) ("Mobile Service Order").

incentive of a carrier to engage in cross-subsidization since there is very limited ability to raise rates under price cap regulation.<sup>11</sup>

Pacific Bell and Nevada Bell will fully comply with the accounting safeguards in our transactions with PBMS.<sup>12</sup> Section 32.27(b) relates to assets purchased by or transferred to the regulated telephone activity of a carrier from nonregulated affiliates. We do not anticipate that PBMS will transfer or sell any assets to Pacific Bell or Nevada Bell. Section 32.27(c) relates to assets sold or transferred from the regulated accounts to nonregulated affiliates. Again, we do not anticipate selling or transferring assets from Pacific Bell or Nevada Bell to PBMS. To the extent that any assets are sold or transferred between Pacific Bell and/or Nevada Bell and PBMS, we will comply with all applicable rules.

Section 32.27(d) states that services provided to a nonregulated affiliate pursuant to a tariff shall be provided at the tariffed rates, or if not tariffed, at fully distributed costs unless the carrier can establish a prevailing price for those services. We anticipate that PBMS will purchase tariffed services from Pacific Bell and Nevada Bell. In addition, we anticipate that PBMS will purchase interconnection service.

These services are now available to commercial mobile radio service ("CMRS") providers in California by contract. We have a proposal to have these services provided under tariff pending at the California Public Utilities Commission ("CPUC"). PBMS will purchase

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<sup>11</sup> Policy and Rules Concerning Rates for Dominant Carriers, First Report and Order, 4 FCC Rcd 2873 (1989).

<sup>12</sup> Pacific Bell revised its CAM to describe the services that we will provide to PBMS. See, Pacific Bell CAM, December 31, 1994, pp. V-38 - V-42. Nevada Bell also revised its CAM on December 31, 1994, pp. V-1 - V-5. Cited pages are enclosed in Exhibit A.

interconnection services under the same contract terms and conditions that are available to all commercial mobile radio service providers until the tariff is effective. If the state interconnection tariff is approved, PBMS will purchase interconnection services under the tariff. However, the CPUC ordered in September, 1994 that the proposed tariff be included in its proceeding on open access framework for network architecture. This is a large complex proceeding and at this point it is impossible to predict when or if the tariff will become effective. The purchase of interconnection services will be discussed in more detail in the non-discrimination section. Any other tariffed services purchased by PBMS will be at the tariffed price.

Nevada Bell has an effective interconnection tariff on file with the Nevada Public Services Commission. Any interconnection services purchased by PBMS from Nevada Bell will be at tariffed rates. Any other tariffed services will also be purchased at the tariffed rate.

PBMS anticipates that it will use Pacific Bell and Nevada Bell sales channels for some of its marketing activity and will also locate some of its equipment on Pacific Bell and Nevada Bell property. This will allow PBMS to take advantage of the economies of scope that the Commission identified in the Second Report and Order.<sup>13</sup> PBMS will compensate Pacific Bell and Nevada Bell pursuant to the Commission's Part 64 rules. PBMS will pay fully distributed cost for these services as well as any other services for which there is no tariff price or prevailing price.

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<sup>13</sup> Second Report and Order, para. 126.



Section 32.27(d) also states that services provided by an affiliate to the regulated activity, when the same services are also provided by the affiliate to unaffiliated persons or entities will be recorded at market rate. Pacific Bell and Nevada Bell anticipate that they will purchase wireless services for their own use from PBMS and will record such transactions at the market price.

In addition to federal accounting safeguard rules, transactions between affiliates are governed by a stringent set of affiliate transaction guidelines required by the CPUC which are also designed to prevent cross-subsidy. In sum, federal and state affiliate transaction accounting rules, the price caps structure, and our own corporate placement of PCS in a separate subsidiary provide full protection to customers of regulated services against cross-subsidy.

B. Non-Discriminatory Interconnection

The Commission said that its concern with discrimination related to the interconnection of PCS to the local exchange network.<sup>14</sup> The Commission wants to ensure that the PCS affiliate of a LEC does not receive more favorable treatment with respect to interconnection than any non-affiliated PCS provider.

In its Second Report and Order in Docket 93-252, the Commission stated that it will require LECs to provide "reasonable and fair interconnection for all commercial mobile

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<sup>14</sup> In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, Notice of Proposed Rulemaking and Tentative Decision, 7 FCC Rcd 5676 (1992) para. 72.

radio services.”<sup>15</sup> The Commission has preempted state and local regulations of the type of interconnection to which CMRS providers are entitled, but it has not preempted intrastate interconnection rates.<sup>16</sup> In Docket No. 94-54, the Commission is currently considering whether interstate interconnection arrangements should be tariffed.<sup>17</sup> The Commission has determined that “reasonable interconnection” will include offering the type of interconnection chosen by a carrier if it is technically and economically reasonable and providing that interconnection within a reasonable time.<sup>18</sup>

Pacific Bell and Nevada Bell are committed to offering fair and reasonable interconnection to all CMRS providers. Wireless interconnection is an important market that we have been serving for more than a decade. As noted above, in California, interconnection arrangements are currently offered pursuant to contracts that are filed with the CPUC. In Nevada, an interconnection tariff is in effect.

PBMS will receive the same interconnection arrangements that are available to any other similarly situated CMRS provider. This means the following:

Pacific Bell will continue to include a “most-favored nation status” in all of its contracts, including any with PBMS. In other words, if any CMRS provider negotiates a more favorable agreement than that currently available to other CMRS providers, all similarly

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<sup>15</sup> Mobile Services Order, para. 230.

<sup>16</sup> Id. at para. 230, 231.

<sup>17</sup> In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Notice of Proposed Rulemaking and Notice of Inquiry, 9 FCC Rcd 5408 (1994) para. 132.

<sup>18</sup> Id., see also Mobile Services Order, para. 232.

situated CMRS providers will receive the same benefit. When the California state interconnection tariff is approved, PBMS will purchase interconnection service pursuant to the tariff. PBMS will purchase interconnection service from Nevada Bell pursuant to its tariff.

Interconnection of the same type will be available to all CMRS providers in the same timeframe. PBMS will not receive better response time for installation, maintenance, or repair. The speed of installation of facilities to provide interconnection is determined by the type of interconnection desired. For example, interconnection at a tandem office will usually take longer than at an end office because tandem office interconnection always requires opening a new number prefix code. This involves coordinating the opening of a new number prefix code with Bellcore so that all routing information for the new prefix will be in effect throughout the nation when the prefix goes into effect. Typically, this process takes about 120 days. End office interconnection can be achieved much faster, if only a small amount of numbers is requested. For example, installation for a small block of numbers, for example 200, may only take 30 days.

When customers contact us initially for installation they generally specify the date on which they desire service. Our goal is to meet that date. The service request is placed in the Service Order Retrieval and Distribution System ("SORD"). Once the orders are taken and input into SORD, they are downloaded mechanically to downstream systems responsible for completing the provisioning process. At this point the documents often do not contain a customer name so favoring one customer over another is not possible.

Wireless carriers are able to place orders by calling the Interexchange Carrier Service Center or using Customer Enhanced System for Access Requests ("CESAR"). PBMS will use the same channels for ordering services as all other wireless carriers.

Repair services for interconnection facilities are offered on a non-discriminatory basis. Repair calls are handled by dialing the number for the Access Carrier Service Center. Repair requests are worked in the order received. The major consideration in the process is meeting the commitment made to the customer. The service priority is determined by the nature of the trouble and the needs of a particular customer. For example, a service outage affecting many end users will get immediate priority.

Interconnection will be through standard network interfaces. Thus, competitors' quality of interconnection and service will be the equivalent of that of PBMS. We currently offer the following types of interconnection for Wireless Carriers ("WC").

#### Interconnection Service Arrangements

Type 1 WC Interconnection - This service is an end office interconnection permitting incoming and outgoing traffic capability. The parameters of this interconnection must conform to the address and supervision protocols described in Bellcore Technical Advisory TA-NPL-000912 and Bellcore Technical Reference TR-NPL-000145.

Type 2A WC Interconnection - This service is an access tandem interconnection permitting incoming and outgoing capability where the WC's switching equipment functions in a manner like the Utilities end office. The parameters of this interconnection must conform to the address and supervision protocols described in Bellcore Technical Reference TR-NPL-000145.

Type 2B WC Interconnection - This service is a one-way end office interconnection for Mobile-to-Land traffic between a WC's point of termination and the designated Utility end office switch

for usage to numbers residing within that end office. Calls are handled using trunk address protocols and multi-frequency signalling to identify the called station number as described in Bellcore Technical Reference TR-NFL-000145.

Type 2AOSS WC Interconnection - This is a one-way, Mobile-to-Land trunk connection between the WC's MTSO and the Utilities' DMS TOPS Tandem. The connection uses a modified Operator Services Signalling Multi-Frequency, 4-wire trunk signaling, progress tones used in Modified OSS protocol will be in conformance with Bellcore's TR-506, Intersystem A C signaling.

Type S WC Interconnection - This service is a signaling interface that is a physical SS7 signaling link connection between the Utilities' network and carriers network. Signaling information is passed via this "S" interface. The Type "S" interface is used to exchange SS7 Integrated Services Digital Network User Part (ISDNUP) and SS7 Transaction Capability Applications Part (TCAP) messages to support the applications to be provided between networks. The Type S interface is a physical interconnection and does not, by itself, include any applications (i.e. SS7 specific functions or services that are provided by the Utility or carrier). Pacific may support an application in some geographic areas and/or vendor specific equipment and not in others. No trunk connections are included in, or with, the Type S interface.

See Exhibit B for a diagram at wireless interconnection.

In addition, other types of interconnection are allowed, e.g., Feature Group access. However, we have received no orders from wireless carriers for Feature Group D PCS providers may have slightly different interconnection needs. Consistent with federal policy, we will comply with requests for other types of interconnection to the extent the interconnection is economically and technically reasonable.

In sum, we are anxious to provide interconnection to the new licensees and all CMRS providers. Our affiliate, PBMS, will receive the same type of interconnection at the

same price with the same terms and conditions and with the same installation and repair intervals as all other similarly situated CMRS providers. Our existing interconnection arrangements which have been in place many years provide an appropriate benchmark for measuring the interconnection services PBMS receives as opposed to other wireless providers.

#### IV. CONCLUSION

As described above, interconnection to Pacific Bell and Nevada Bell's networks will be offered to all CMRS providers on a non-discriminatory basis. Costs of our PCS service will be easily identified through the separate accounting within the PCS subsidiary. All services provided by Pacific Bell and Nevada Bell to the PCS subsidiary will be either at the tariffed rate, if applicable, or if the service is not tariffed, the service will be provided at fully distributed costs, unless a prevailing price can be established. Customers of Pacific Bell and Nevada Bell's regulated telephony services will not be paying for PCS services and they will

not be disadvantaged in any way by our provision of PCS service. If anything, they will benefit from the increased demand for Pacific Bell and Nevada Bell services through the purchase of those services by the PCS subsidiary. We respectfully request that the Commission approve our plan.

Respectfully submitted,

PACIFIC BELL  
NEVADA BELL  
PACIFIC BELL MOBILE SERVICES  
PACIFIC TELESIS MOBILE SERVICES

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